

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

**TEMPORARY PERMIT FOR  
DIVERSION AND USE OF WATER**

**TEMPORARY PERMIT 21212**

Application **T031693** of

**San Bernardino Valley Municipal Water District and  
Western Municipal Water District of Riverside County  
P.O. Box 5906  
San Bernardino, CA 92412-5906**

filed on **February 1, 2008**, has been approved by the State Water Resources Control Board (State Water Board)  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

**Permittee is hereby authorized to divert and use water as follows:**

1. Source of water

Source:

**Santa Ana River**

Tributary to:

**Pacific Ocean**

within the County of **San Bernardino**

2. Location of point of diversion and redirection

By California Coordinate System of 1983 in Zone 5	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>Point of Diversion <u>Seven Oaks Dam</u> North 1,867,532 feet and East 6,837,528 feet</b>	<b>NW<math>\frac{1}{4}</math> of NW<math>\frac{1}{4}</math></b>	<b>4</b>	<b>1S</b>	<b>2W</b>	<b>SBB&amp;M</b>
<b>Point of Diversion and <u>Rediversion – Cuttle Weir</u> North 1,862,706 feet and East 6,833,882 feet</b>	<b>SW<math>\frac{1}{4}</math> of SW<math>\frac{1}{4}</math></b>	<b>4</b>	<b>1S</b>	<b>2W</b>	<b>SBB&amp;M</b>
<b><u>Point of Rediversion</u> Streamreach Between (1) Cuttle Weir Overflow at North 1,862,706 feet and East 6,833,882 feet, and</b>	<b>SW<math>\frac{1}{4}</math> of SW<math>\frac{1}{4}</math></b>	<b>4</b>	<b>1S</b>	<b>2W</b>	<b>SBB&amp;M</b>
<b>(2) E Street at North 1,847,108 feet and East 6,773,424 feet</b>	<b>SW<math>\frac{1}{4}</math> of SE<math>\frac{1}{4}</math></b>	<b>21</b>	<b>1S</b>	<b>4W</b>	<b>SBB&amp;M</b>

3. Purposes of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
<b>Municipal, Domestic, and Industrial</b>	<b>Within the boundaries of San Bernardino Valley Municipal Water District and Western Municipal Water District of Riverside County</b>					

The place of use is shown on maps on file with the State Water Board for Applications 31165 and 31370.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed **42,100** acre-feet per annum to be collected to underground storage at a maximum rate of **350** cubic feet per second for **180 days** from the date of permit issuance.

(0000005H)

6. Permittees shall install and maintain measuring devices, satisfactory to the State Water Board, which are capable of (1) measuring the instantaneous rate of diversion and the cumulative quantity of water diverted to groundwater storage and (2) the cumulative quantity of water extracted from groundwater storage. Permittees shall calculate the rediversions to underground storage between Cuttle Weir and E Street, after deducting the natural recharge rate of the streambed from the surface flow record. This permit does not authorize diversion of uncontrolled, natural recharge.

Within two weeks of permit issuance, Permittees shall coordinate with Division staff and establish an agreed upon flow measurement protocol. The flow measurement protocol is subject to modification and approval of the Chief, Division of Water Rights. Diversions pursuant to this permit must cease 30 days after permit issuance if the Chief, Division of Water Rights has not yet approved a flow measurement protocol. The diversion data shall be posted on both Permittees web sites on a weekly basis throughout the diversion period and provided to the State Water Board on disk by November 2, 2008.

(0110900)

7. Permittees shall report to the State Water Board by November 2, 2008 the total quantity of water diverted under this temporary permit.

8. This temporary permit is issued and Permittees take it subject to California Water Code, Division 2, Chapter 6.5, section 1425, et seq. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the State Water Board.

(0510800)

9. Issuance of this temporary permit shall not be construed as indicating State Water Board approval of Applications 31165 and/or 31370, nor shall it be construed as establishing the conditions for any permits issued pursuant to Applications 31165 and/or 31370. Upon issuance of permits pursuant to Applications 31165 and/or 31370, this temporary permit shall expire regardless of whether the 180-day temporary permit period has ended.

(0510999)

10. This permit shall not be construed as conferring upon the Permittees right of access to facilities of the U.S. Army Corps of Engineers.

(0000022)

11. This permit is specifically subject to the prior rights of Bear Valley Mutual Water Company, City of Redlands, East Valley Water District, Lugonia Water Company, North Fork Water Company and Redlands Water Company to divert the first 88 cubic feet per second of the natural flow of the Santa Ana River pursuant to pre-1914 appropriative right, to the extent that such rights may exist.

(00000T)

12. This permit is specifically subject to the prior rights of San Bernardino Valley Water Conservation District under Licenses 2831 and 2832 issued pursuant to Applications 2217 and 4807.

(00000T)

13. Nothing in this Permit shall be construed as authorizing any diversions contrary to the provisions of the December 19, 2002 Biological Opinion issued by United States Fish and Wildlife Service for operation of Seven Oaks Dam, including flow releases for downstream over-bank inundation to preserve State and federally listed threatened and endangered species and their habitat.

#### **STANDARD TERMS AND CONDITIONS**

#### **ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board (State Water Board) until a license is issued. (0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

***This permit is issued and permittee takes it subject to the following provisions of the Water Code:***

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any

rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

***J.W. KASSLE FOR:***

*Victoria A. Whitney*  
*Division Chief*

Dated: **2/21/08**

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